

IN THE
UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Record No. 18-4201

UNITED STATES OF AMERICA,
Appellee,

v.

WILLIAM SCOTT DAVIS, JR.,
Appellant.

RESPONSE TO APPELLANT WILLIAM SCOTT DAVIS, JR.'S
MOTION TO RECONSIDER

Paul K. Sun, Jr., counsel for Appellant William Scott Davis, Jr., submits this response to Mr. Davis's motion for reconsideration of motion to terminate counsel.

1. This is an appeal by Mr. Davis of his conviction and sentence.
2. Undersigned Counsel was appointed on 5 April 2018 to represent Mr. Davis on appeal pursuant to the Criminal Justice Act. Kelly Margolis Dagger also has appeared as counsel of record to assist in the representation of Mr. Davis on appeal. Neither undersigned Counsel nor Ms. Dagger was involved in the proceedings in the District Court.

3. Mr. Davis objected immediately to the appointment of Counsel to represent him on appeal, filing a motion on 18 April 2018. (DE 4). Mr. Davis

objected that Counsel necessarily has a conflict of interest because Counsel practices in Raleigh, Wake County, North Carolina. (*Id.*). The Court denied Mr. Davis's motion. (DE 5).

4. Mr. Davis filed a motion for reconsideration of the denial of his motion, again seeking to have Counsel removed from representing him on appeal. (DE 16). Mr. Davis again asserted that Counsel necessarily has a conflict of interest and has been, or will be, ineffective in the representation on appeal.

5. Counsel has spoken by telephone with Mr. Davis and has communicated with him using the inmate email system. Counsel has moved forward with the representation on appeal, taking the actions necessary for Mr. Davis to prosecute his appeal, but it is apparent to Counsel that there will not be the communication and trust required to represent Mr. Davis on appeal. Without the ability to communicate effectively with Mr. Davis based on his inherent belief that Counsel is unable fairly to represent him, Counsel believes that he cannot effectively represent Mr. Davis. Counsel therefore respectfully seeks leave to withdraw as Mr. Davis's counsel.

6. As reflected in Mr. Davis's filings with this Court, and also his filings in the District Court, Mr. Davis believes that attorneys from North Carolina, particularly from Wake County, North Carolina, will not be able fairly to represent

him. Appointment of new counsel on appeal not from North Carolina would address Mr. Davis's principal complaint about Counsel's appointment to represent him. Mr. Davis is detained at FCI Cumberland, Maryland, and has expressed an interest in having the opportunity to meet in person with his counsel on appeal.

For these reasons, undersigned Counsel respectfully requests leave to withdraw as counsel for Mr. Davis on appeal, and also requests that Ms. Dagger be granted leave to withdraw as counsel for Mr. Davis.

This the 19th day of May, 2018.

ELLIS & WINTERS LLP

/s/ Paul K. Sun, Jr.

Paul K. Sun, Jr.

N.C. State Bar No. 16847

paul.sun@elliswinters.com

Kelly Margolis Dagger

N.C. State Bar No. 44329

kelly.dagger@elliswinters.com

Post Office Box 33550

Raleigh, North Carolina 27636

Telephone: (919) 865-7000

Facsimile: (919) 865-7010

Attorneys for William Scott Davis, Jr.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing was filed with the clerk of court using the CM/ECF system, which will send notice of the filing to the United States of America via its attorneys addressed as follows:

Jennifer P. May-Parker: Jennifer.May-Parker@usdoj.gov
Kristine Fritz: Kristine.Fritz@usdoj.gov

This the 19th day of May, 2018.

ELLIS & WINTERS LLP

/s/ Paul K. Sun, Jr.

Paul K. Sun, Jr.

N.C. State Bar No. 16847

paul.sun@elliswinters.com

Post Office Box 33550

Raleigh, North Carolina 27636

Telephone: (919) 865-7000

Facsimile: (919) 865-7010

Attorney for William Davis Scott, Jr.